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09/463,146	04/14/2000	PETER FORD	RJENK9.001AP	5908

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EXAMINER

LANIER, BENJAMIN E

ART UNIT	PAPER NUMBER
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2132

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/463,146

Filing Date: April 14, 2000

Appellant(s): FORD, PETER

John M. Carson
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 20 March 2006 appealing from the Office action mailed 17 March 2005.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

No amendment after final has been filed.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

5,852,290	CHANEY	12-1998
WO 9641493 A1	DIACHINA	12-1996

Farrugia, A.J. "Smart Card Technology Applied to the future of European Cellular Telephone on the digital D-Network" Elsevier Science Publishers, 1991, pp. 100-103

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 19, 20, 24-36, and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Diachina, WO 96/41493, in view of Chaney, U.S. Patent No. 5,852,290. Referring to claims 19, 20, 24, 25, 27-30, 32-34, 36, and 37, Diachina discloses controlling digital control channels for broadcast SMS wherein SMS messages can be encrypted to support different classes of messaging service (access status). Based on appropriate fee payments, a subscriber would be able to decrypt SMS message of varying classes (preventing and allowing information access, first, second information access status). Upon payment the mobile stations of the subscribers would be provided with the encryption keys for the SMS messages via over the air methods or manual entry of smart cards (removable module) into the mobile stations (Page 40, lines 5-27). Diachina does not specify that the message decryption takes place in the smart cards. Chaney discloses a smart card access control system for use in cellular communication wherein the smart cards of the cellular phones are used to decrypt messages (Col. 13, lines 17-24). It would have been obvious to one of ordinary skill in the art at the time the invention was made for the smart cards of Diachina to decrypt message because Diachina discloses that the messages are decrypted using processing means of the mobile stations (Page 40, lines 18-20), and when the smart cards are inserted in the mobile stations they become processing means for the mobile station.

Referring to claim 26, Diachina discloses that the SMS messages contain header information that discloses from which channel the mobile terminal can download the SMS message (Page 33).

Referring to claims 31 and 35, Diachina discloses that the channel can be GSM (Page 6, line 20).

Claims 21-23 rejected under 35 U.S.C. 103(a) as being unpatentable over Diachina, WO 96/41493, in view of Chaney, U.S. Patent No. 5,852,290 as applied to claim 19 above, and further in view of Farrugia. Referring to claims 21-23, Diachina discloses controlling digital control channels for broadcast SMS wherein SMS messages can be encrypted to support different classes of messaging service (access status). Based on appropriate fee payments, a subscriber would be able to decrypt SMS message of varying classes (preventing and allowing information access, first, second information access status). Upon payment the mobile stations of the subscribers would be provided with the keys for the SMS messages via over the air methods or manual entry of smart cards (removable module) into the mobile stations (Page 40, lines 5-27). Chaney discloses a smart card access control system for use in cellular communication wherein the smart cards of the cellular phones are used to decrypt messages (Col. 13, lines 17-24). Diachina does not disclose storing the keys on the smart cards in an encrypted form. Farrugia discloses the use of smart card technology with cellular networks where the key used to decrypt encrypted cellular message are stored in an encrypted fashion on the smart card of the subscribers mobile terminal (Page 101). It would have been obvious to one of ordinary skill in the art at the time the invention was made to encrypt the keys of Diachina on the smart cards in order to control access to the keys as taught in Farrugia (Page 102).

(10) Response to Argument

Applicant's argument that Diachina does not disclose a transfer protocol identifier as recited in the independent claims is not persuasive because as previous alluded to on page 33,

Diachina discloses that the encrypted SMS messages transmitted in the cellular network have an SMS header. This SMS header includes SMS header information which describes sub-channel information that the message is to be transmitted over, layer structure information (Page 33, lines 10, 20). Particularly in the embodiment disclosed on page 33, Diachina shows that the SMS message is structured in the layer 3 format (Page 33, line 10). Additionally, Diachina shows on page 7 that 'each layer 3 message would include various information elements that can be considered the payload of the message, a header portion for identifying the respective message's type, and possibly padding' (Page 7, lines 25-28). This identification of the message type would meet the limitation of a transfer protocol identifier as claimed, because it clearly relates to the SMS protocol layer specifically.

Applicant's argument that cited prior art does not disclose that the message is of a type for data download to the removable module is not persuasive because Chaney discloses that the transport unit of the terminal (Figure 1, element 120) processes the incoming signal to detect and separate various types of data that may be arranged in various formats (Col. 4, lines 36-38). The format of the data is defined in the header of the data packet (Col. 4, lines 46-49). When the transport unit of the terminal detects EMM and ECM data in the data packets, those packets are transmitted to the smart card for processing (Col. 5, lines 42-44). Therefore, the transport unit of the terminal is clearly making a differentiation between which data types go to the smart card, and which data types do not.

Applicant's argument that the transfer protocol identifier in claim 19 is associated with the destination location of the downloaded data is not persuasive because the claims do not require such an association. The claim limitation in question requires only that the transfer

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protocol identifier indicate that the message is of a type that is able to be downloaded to the removable module from the first mobile station, and this limitation has clearly been met by combined references as shown above.

Applicant's argument that Diachina does not disclose passing said encrypted broadcast message to its corresponding removable module in response to receipt of said transfer protocol identifier is not persuasive because that claim limitation is clearly disclosed by the Chaney reference as discussed above. It would have been obvious to one of ordinary skill in the art at the time the invention was made for the smart cards of Diachina to decrypt message because Diachina discloses that the messages are decrypted using processing means of the mobile stations (Page 40, lines 18-20), and when the smart cards are inserted in the mobile stations they become processing means for the mobile station.

Applicant appears to argue, on pages 9-10, that Chaney does not disclose passing said encrypted broadcast message to its corresponding removable module in response to receipt of said transfer protocol identifier even though Applicant describes an embodiment where Chaney does just that. The cited portions of Chaney clearly meet the discussed limitation, as shown above, when considered within the modification of the SMS broadcast system of Diachina made in the Office Action mailed 17 March 2005.

Examiner disagrees that claims 32 and 37 stand or fall along with claim 19, because neither claim 32 nor claim 37 contains the discussed limitation of 'passing said encrypted broadcast message to its corresponding removable module in response to receipt of said transfer protocol identifier.' Each claim has a passing step, but neither of the claims contains a passing

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step that is in response to the receipt of said transfer protocol identifier. Therefore, the claim scope of claims 32 and 37 is broader than that of claim 19.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

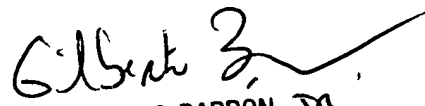
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